Remarks/Arguments

Claims 26-44 are currently pending in the application. Claim 26 has been amended to recite a method of treating cancer comprising administering to a patient receiving a chemotherapeutic factor an amount of a monoclonal antibody which binds to a receptor recognized by human stem cell factor (SCF) and inhibits binding of SCF to the receptor or inhibits growth and/or development of cells containing said receptor. The amended claim does not introduce new matter or raise new issues requiring further consideration and/or search. Support for the amendments can be found in the specification at p. 20, line 19 to p. 21, line 21, which discloses the use of the claimed monoclonal antibody to reduce sensitivity to cell-cycle specific chemotherapeutic agents; p. 17, line 25 to p. 18, line 14, which discloses the use of the claimed monoclonal antibody and an anti-neoplastic agent to treat neoplastic cells; and original claims 14, 15, 16 and 17 which recite treating leukemia cells or solid tumors with a claimed monoclonal antibody and a leukemia or tumor therapeutic agent. Entry of the amended claim is requested.

Claims 26-44 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. The Examiner maintains that the terms "modify" and "sensitivity" are not clear in the context of the claim and it is not clear what is being modified. Without acquiescing to the rejection and solely to advance prosecution, Applicants have amended Claim 26 to delete reference to the terms "modify" and "sensitivity", thereby rendering the rejection moot.

Claims 26-44 are rejected under 35 U.S.C. 112, first paragraph, as the specification allegedly does not describe the invention in such a way as to enable one skilled in the art to make and/or use the invention. The Examiner argued that while the specification is enabled for a method of decreasing the growth and development of cells containing SCF with an antibody that binds to an epitope on a receptor recognized by SCF, the specification allegedly does not enable a method of modifying the sensitivity of cells to a chemotherapeutic agents by adding an antibody to the cells. It is alleged that undue experimentation would be required to determine how to modify cells to a chemotherapuetic agent by adding an antibody.

Without acquiescing to the rejection and solely to advance prosecution, Applicants have amended Claim 26 such that it no longer recites a method of modifying the sensitivity of cells to a chemotherapeutic agent, thereby rendering the rejection moot.

Claims 27 and 28 are rejected under 35 U.S.C. 112, first paragraph, as the specification allegedly does not describe the invention in such a way as to enable one skilled in the art to make and/or use the invention.

The Examiner argues that the specification does not provide evidence that the claimed biological materials are (1) known and readily available to the public; and (2) reproducible from the written description.

Applicants provided herewith in Exhibit A a receipt copy from the American Type Culture Collection indicating that the deposit of biological material on April 4, 1991 and receiving the designation HB 10716 was requested to be converted to a deposit under the Budapest Treaty of April 3, 1992. Accordingly, upon issuance of a patent, the deposit would be made available under the conditions of the Budapest Treaty.

CONCLUSION

Claims 26-44 are in condition for allowance and an early notice thereof is solicited.

Respectfully submitted,

Robert B. Winter
Attorney/Agent for Applicants
Registration No.: 34,458
Phone: (805) 447-2425
Date: November 21, 2003

Please send all future correspondence to:

US Patent Operations/ [RBW]
Dept. 4300, M/S 27-4-A
AMGEN INC.
One Amgen Center Drive
Thousand Oaks, California 91320-1799